

## 17 **Internal audit / investigation function**

Section 7112(b)(7) excludes from all bargaining units:

any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

Employees engaged in investigation or audit functions are excluded from bargaining units under section 7112(b)(7) on the basis that inclusion of individuals performing these functions would create a conflict with bargaining unit status. The nature of the investigation/audit and what the investigation/audit might uncover as it pertains to unit employees is controlling as to this exclusion. For example, individuals who audit agency programs and/or contracts and whose audits may uncover the failure of employees to comply with programs, or employee fraud waste and abuse, are excluded pursuant to section 7112(b)(7). See *Small Business Administration*, 34 FLRA 392, 400 - 402 (1990). Thus, auditors or investigators do not have to be directly investigating unit employees for this exclusion to be considered.

The section 7112(b)(7) standard includes any audit or investigation that relates to the “honesty and integrity” of particular types of employees. It is not limited to employees who perform investigations relating to “fraud, waste, and abuse.” *U.S. Department of Justice, Federal Bureau of Prisons, U.S. Penitentiary, Marion, Illinois (DOJ)*, 55 FLRA 1243 (2000) [the Authority instructed the Regional Director to “consider whether the Legal Assistant’s (the disputed employee) investigations of allegations that employees have used excessive force or have violated the civil rights of inmates constitute investigation of whether such employees have performed their duties honestly and with integrity.”]. Also, the fact that the audits or investigations do not regularly find these violations is not dispositive.

**See HOG 53 for specific guidance about this topic at hearing.**

**Other references:**

*Department of Labor, Office of the Inspector General, Region I, Boston, 7 FLRA 834 (1982).*

*U.S. Department of the Navy, Navy Audit Service, Southeast Region, 46 FLRA 512 (1992).*